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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,639	10/08/2003	Qinwei Shi	12927-7 LAB	6090

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EXAMINER	
YU, MELANIE J	
ART UNIT	PAPER NUMBER
1641	
MAIL DATE	DELIVERY MODE
08/05/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/681,639	SHI, QINWEI	
	Examiner	Art Unit	
	MELANIE YU	1641	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,2,5-7,10-13,20,21,24-26 and 33-39*.
   Claim(s) withdrawn from consideration: *3,4,8-19,22,23 and 27-32*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Mark L. Shibuya, Ph.D./
Supervisory Patent Examiner, Art Unit 1641

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 10 July 2008 are not persuasive.

Applicant argues that Kang et al. fail to teach a platform flow channel that is upstream of the membranes and the sample application means (aperture) is on top of the reservoir pad and is therefore applied to the sample application means instead of applied to the sample application means and flowing continuously therefrom. Applicant's argument is not persuasive because the rejected claims require a porous membrane for detecting at least one component in a liquid sample and the platform flow channel formed upstream of the detection membrane. The rejected claims do not exclude the prescence of a porous membrane in the platform flow channel upstream of the membrane. Kang et al. teaches the presence of a reservoir pad (10, Fig. 1) which is a separate membrane from the detection membrane (16, Fig. 1) and therefore the reservoir pad is considered part of the "platform flow channel" and is not part of the porous membrane for detection. Therefore both the sample application means (aperture) and platform flow channel are upstream from the porous membrane for detection as required by the rejected claims.

Applicant further argues that Kang et al. teach that the reservoir pad can hold a large quantity of sample and is therefore not suitable for use with a low volume liquid sample as presently claimed. Applicant's argument is not persuasive because although the device of Kang et al. may be suitable for use with a large sample volume, it does not exclude the device being capable for use with a small sample volume. Since the sample volume is not part of the platform device and therefore the device must only be capable of processing a small sample volume. Furthermore, the sample volume of 100 microliters taught by Kang et al. is considered a small amount of sample.

Applicant argues that Catt et al. and Yu fail to teach a platform flow channel upstream of the membranes. Applicant's argument is not persuasive because Catt et al. and Yu are not relied upon for teaching these features. Catt et al. and Yu are relied upon only for the container holding the membranes and the hydrophilic treatment of the container which forms the platform around the membranes. As described above, the rejected claims do not exclude the presence of a reservoir pad that is separate from the detection membrane in the platform flow channel. The reservoir pad of Kang et al. is considered the platform flow channel and the detection strip (16, Fig. 1) is considered the membrane for detection in a membrane channel. Catt et al. and Yu are relied upon only for the structure forming the platform flow channel and membrane channel and the chemical treatment of these surfaces.